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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENNETH RICHARD ROWELL,

Defendant.

NO: CR-13-6070-WFN

GOVERNMENT'S RESPONSE TO
DEFENDANT'S SUPPLEMENTAL
SENTENCING MEMORANDUM

Plaintiff, United States of America, by and through Michael C. Ormsby, United States Attorney for the Eastern District of Washington, and Alexander C. Ekstrom, Assistant United States Attorney for the Eastern District of Washington, hereby submits the following response to the Defendant's supplemental sentencing memorandum (ECF No. 55) as follows:

I. DEFENDANT'S OBJECTION/SUGGESTION

1. Page 11, Paragraph 54-57, Conviction for First Degree Sodomy:

The Defendant does not seek to directly reply to the Government's response on this issue, in which the Government contended that, even if he supported his allegations that his attorney failed to communicate with him regarding this prosecution, he could not meet his burden to overcome the "presumption of regularity" of a conviction. (ECF No. 51, pg. 2), *citing United States v. Allen*, 153 F.3d 1037, 1041 (9th Cir. 1998). Essentially, the Defendant now argues that this Court should remove the information not because it is inaccurate, but rather because it is "prejudicial" to his placement at BOP. (ECF NO. 55, pg. 2). Neither of the cases

Government's Response To Defendant's
Supplemental Sentencing Memorandum

1 cited by the Defendant support his assertion that this Court should remove this
2 accurate information from the PSIR. *Id.* at pg. 1-2, *citing United States v. Brown*, 715
3 F.2d 387 (5th Cir. 1983) *and citing United States v. Petti*, 513 F.2d 572 (9th Cir. 1975).
4 The Defendant is required to register as a sex offender as a result of his conviction,
5 and has been registering as required. The simple fact that evidence of this conviction
6 also results in a less favorable classification is not a rationale for removing the same
7 from a PSIR.

8 Respectfully submitted this 14th day of May, 2014

9 MICHAEL C. ORMSBY
10 United States Attorney

11 s/Alexander C. Ekstrom
12 ALEXANDER C. EKSTROM
13 Assistant United States Attorney

1 I hereby certify that on May 14, 2014, I electronically filed the foregoing with
2 the Clerk of the Court using the CM/ECF System which will send notification of such
3 filing to the following: Rick Lee Hoffman.

4
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